

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA

In re:

Bky. Case No. 24-30167
Chapter 7

Pro-Mark Services, Inc.,

Debtor.

**NOTICE AND MOTION
FOR APPROVAL OF
SETTLEMENT AGREEMENT**

Erik A. Ahlgren, as Chapter 7 Trustee
of the Bankruptcy Estate of Pro-Mark Services, Inc.,
as Administrator of the Pro-Mark
Services, Inc. Employee Stock Ownership Plan, and
as Trustee of the Pro-Mark Services, Inc.
Employee Stock Ownership Trust,

Plaintiff,

Adv No. 24-07014

v.

Connie Berg, Kyle Berg, Connie Berg Revocable
Living Trust, Kyle R. Berg Revocable Living Trust,
Chad DuBois, and Miguel Paredes,

Defendants.

Erik Ahlgren is the chapter 7 trustee ("Trustee") in the above-referenced bankruptcy case. In addition, Mr. Ahlgren is the administrator ("ESOP Administrator") of the Pro-Mark Services, Inc. Employee Stock Ownership Plan ("ESOP Plan") and the trustee ("ESOP Trustee") of the Pro-Mark Services, Inc. Employee Stock Ownership Trust ("ESOP Trust") and together with the ESOP Plan, the "ESOP").

Mr. Ahlgren, in his capacity as Trustee, requests that the Court approve a Settlement Agreement dated as of July 21, 2025 (the "Settlement Agreement"), between Mr. Ahlgren, in his capacities as Trustee, ESOP Administrator, and ESOP Trustee, and Chad DuBois. A copy of the Settlement Agreement may be obtained by contacting the Trustee. The Trustee has also filed a copy of the Settlement Agreement in this Adversary Proceeding at Doc. 148 and in the main case at Doc. 229. The Settlement Agreement provides, in essential part, as follows:

Pro-Mark Services, Inc. ("Debtor") filed for bankruptcy protection on April 22, 2024, in the District of North Dakota. Pre-petition, Mr. DuBois was an officer and director of the Debtor. Also, pre-petition, the Debtor established the ESOP. Post-petition, Mr. Ahlgren, in his capacities as Trustee, ESOP

Administrator, and ESOP Trustee (in such capacities, “Plaintiff”), commenced an adversary proceeding titled *Erik A. Ahlgren, as Chapter 7 Trustee of the Bankruptcy Estate of Pro-Mark Services, Inc., as Administrator of the Pro-Mark Services, Inc. Employee Stock Ownership Plan, and as Trustee of the Pro-Mark Services, Inc. Employee Stock Ownership Trust v. Connie Berg, Kyle Berg, Connie Berg Revocable Living Trust, Kyle R. Berg Revocable Living Trust, Chad DuBois, and Miguel Paredes*, Adv. No. 24-07014. In the adversary proceeding, Plaintiff alleges that Mr. DuBois breached fiduciary duties he owed to the Debtor, committed deceit against the ESOP, and is liable for state-law securities fraud committed against the Debtor and the ESOP. Mr. DuBois denies the allegations.

Under the Settlement Agreement, Plaintiff and Mr. DuBois have agreed to settle the adversary proceeding with respect to the claims against Mr. DuBois. Mr. DuBois will pay \$85,000.00 to Plaintiff as a full and complete settlement of all claims asserted or that could be asserted by Plaintiff against Mr. DuBois, his agents, and certain of his family members on behalf of the Debtor and the ESOP. If the settlement is approved, Plaintiff would hold the \$85,000.00 pending further order of the Court regarding allocation of the funds between the Debtor’s estate and the ESOP.

In addition to the settlement payment, Mr. DuBois has agreed to cooperate with Plaintiff fully and truthfully in his prosecution of the adversary proceeding against the remaining defendants, his administration of the Debtor’s bankruptcy estate, and his administration of the ESOP. This cooperation will include, among other things, Mr. DuBois’s execution of an affidavit detailing his knowledge of certain facts relating to the adversary proceeding.

The Trustee believes that the Settlement Agreement is fair and equitable, is in the best interest of the Debtor’s bankruptcy estate and the ESOP, satisfies the standard under Bankruptcy Rule 9019, and should be approved. First, the settlement will avoid the cost and uncertainty of litigation and provides a guaranteed recovery for the claims against Mr. DuBois. Second, Mr. DuBois’s agreement to cooperate, fully and truthfully, will assist Plaintiff in prosecuting the adversary proceeding, administering the Debtor’s estate, and administering the ESOP.

NOTICE OF MOTION: Your rights may be affected in this action. You should read these papers carefully and discuss the matters with your attorney if you have one. Any objections to this motion must be made within 21 days of this date with an original filed with the Clerk of Bankruptcy Court and copies served upon the Bankruptcy Trustee and United States Trustee at the addresses stated below. Failure to timely respond to this motion will be deemed a waiver of any objections and the Court will grant such relief as it deems appropriate.

Clerk, U.S. Bankruptcy Court
Quentin N. Burdick U.S. Courthouse
655 First Ave. N. – Suite 210
Fargo, ND 58107-4932

United States Trustee
314 South Main Ave.
Suite 303
Sioux Falls, SD 57104-6462

Trustee
(see address below)

DATE: July 22, 2025

/e/ Peter D. Kieselbach

Michael B. Fisco (*Admitted Pro Hac Vice*)
Peter D. Kieselbach (*Admitted Pro Hac Vice*)
GREENBURG TRAURIG, LLP
90 South Seventh St., Suite 3500
Minneapolis, MN 55402
Tel: (612) 259-9700
fiscom@gtlaw.com
kieselbachp@gtlaw.com
Counsel for Erik Ahlgren, as Trustee

Erik Ahlgren, Chapter 7 Trustee
Ahlgren Law Office, PLLC
220 W Washington Ave. Ste 105
Fergus Falls MN 56537
218-998-2775

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA

In re:

Bky. Case No. 24-30167
Chapter 7

Pro-Mark Services, Inc.,

[PROPOSED] ORDER

Debtor.

Erik A. Ahlgren, as Chapter 7 Trustee
of the Bankruptcy Estate of Pro-Mark Services, Inc.,
as Administrator of the Pro-Mark
Services, Inc. Employee Stock Ownership Plan, and
as Trustee of the Pro-Mark Services, Inc.
Employee Stock Ownership Trust,

Plaintiff,

Adv No. 24-07014

v.

Connie Berg, Kyle Berg, Connie Berg Revocable
Living Trust, Kyle R. Berg Revocable Living Trust,
Chad DuBois, Mandy Grant, and Miguel Paredes,

Defendants.

On July 22, 2025, Erik Ahlgren, the Chapter 7 Trustee, filed a motion seeking approval of a Settlement Agreement by and between (a) Mr. Ahlgren, in his capacities as Chapter 7 Trustee, Administrator of the Pro-Mark Services, Inc. Employee Stock Ownership Plan, and the Trustee of the Pro-Mark Services, Inc. Employee Stock Ownership Trust and (b) Chad DuBois. The Chapter 7 Trustee served the Motion and Notice. The Court received no objections. Based on the information provided by the Chapter 7 Trustee and the documents filed in this adversary proceeding and the main case, the Court finds that the Settlement Agreement is fair and equitable, reflects a balance of the risks of litigation with the potential recovery, and is in the best interest of the bankruptcy estate.

Therefore, **IT IS ORDERED** that the Motion for Approval of Settlement Agreement [Doc. __] is **GRANTED**. The Settlement Agreement filed as [Doc. 148] is **APPROVED**.

Dated this ____ day of _____, 2025.

Shon Hastings, Chief Judge
United States Bankruptcy Court

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA**

In re:

Bky. Case No. 24-30167
Chapter 7

Pro-Mark Services, Inc.,

Debtor.

CERTIFICATE OF SERVICE

Erik A. Ahlgren, as Chapter 7 Trustee
of the Bankruptcy Estate of Pro-Mark Services, Inc.,
as Administrator of the Pro-Mark
Services, Inc. Employee Stock Ownership Plan, and
as Trustee of the Pro-Mark Services, Inc.
Employee Stock Ownership Trust,

Plaintiff,

Adv No. 24-07014

v.

Connie Berg, Kyle Berg, Connie Berg Revocable
Living Trust, Kyle R. Berg Revocable Living Trust,
Chad DuBois, and Miguel Paredes,

Defendants.

I, Denise Sodergren, Legal Support Specialist with the law firm of Greenberg Traurig, LLP, hereby certify that on July 22, 2025, I caused copies of the *Notice and Motion for Approval of Settlement Agreement* and *[Proposed] Order* to be served on the parties entitled to receive notice through the Electronic Case Filing System for the United States Bankruptcy Court for the District of North Dakota in the above-referenced Adversary Proceeding, and sent by first class mail, postage prepaid to the entities named below:

Secretary of the U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Secretary of the U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Internal Revenue Service
PO Box 7346
Philadelphia, PA 19101-7346

U.S. Attorney
655 First Avenue North, Suite 250
Fargo, ND 58102-4932

Securities & Exchange Commission
175 W. Jackson Blvd.
Chicago, IL 60604-2908

Dated: July 22, 2025

/e/ Denise Sodergren
Denise Sodergren, Legal Support Specialist
Greenberg Traurig, LLP
90 South Seventh Street, Suite 3500
Minneapolis, MN 55402
(612) 259-9700